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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,290	12/21/2001	Alvin D. McCauley	0736.3016.003	1330

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,290

Applicant(s)

MCCAULEY, ALVIN D. 

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/26/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/21/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election of Group I and Species I in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 11-13 and 18-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

Drawings

The drawings showing the changes set forth in the remarks filed August 26, 2004 have not been approved because they are not present in the file. However, the drawing objections regarding claim 3 are moot in view of the cancellation of claim 3.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "22" on line 8 of page 15 and "68" on line 26 of page 18.

The drawings are objected to because the arrows as set forth on line 30 of page 15 to line 1 of page 16 are not shown in figure 14.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The substitute specification submitted August 26, 2004 has not been entered because the requirements of 37 CFR 1.125 have not been met. In particular, no statement that the substitute specification includes no new matter has been made and a clean version of the substitute specification has not been provided.

The abstract of the disclosure is objected to because it is rather lengthy and confusing. For example, recitations such as "a window" on lines 4 and 13 are confusing since it is unclear if the applicant is referring to the window set forth above or is attempting to set forth another window in addition to the one set forth above. Recitations such as "such a window" on line 8, "a window aperture" on lines 10 and 13, "a window frame" on lines 10-11, "a window aperture" on line 11, and "an installer" are confusing for the same reason as set forth above. It is suggested that the applicant simplify the abstract by only referring to how the installation assembly simplifies the installation of a window in a vehicle window aperture. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: each of the figures 10-13 on line 18 of page 13, figures 17-21 on line 1 of page 14, figures 22-26 on line 5 of page 14 and figures 30-33 on line 16 of page 14 each require a separate description. In other words, each of figures 10-13 should be separately described. On line 30 of page 22, it appears that "122" should be changed to --123--

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant remove the reference to the method and to include the centering aspect of the invention.

Claim Rejections - 35 USC § 112

Claims 1, 2 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a window" on line 4 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the window set forth above or is attempting to set forth another window in addition to the one set forth above.

Recitations such as "such a window frame" on line 10 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the window frame set forth above or is attempting to set forth another window frame in addition to the one set forth above. If the former is the case, then it is suggested that the applicant change "such a" to --said-- to avoid confusion. Recitations such as "a window aperture" on line 11 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the window aperture set forth above or is attempting to set forth another window aperture in addition to the one set forth above. Recitations such as "that window aperture" on line 5 of claim 14 render the claims indefinite because it is unclear to which one of the plurality of window apertures set forth above the applicant is referring.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebhard. Gebhard discloses a mass transit window installation assembly comprising a window retainer 17 configured to connect between a window frame 3 of a window 2 and a vehicle wall panel 1 having a window aperture 9 shaped to receive the window, where the window frame has a shape that allows at least a portion of the window frame including an outer peripheral wall to be received within the window aperture, the retainer being additionally configured to laterally position the window by spacing the outer peripheral wall of such a window frame from an inner peripheral surface of a window aperture, and the retainer being additionally configured to be supported on one of a window frame and a window aperture in a position to laterally position the window as the window is inserted axially into the aperture.

Claims 1 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris. Harris discloses a mass transit window installation assembly comprising a window retainer 56 configured to connect between a window frame 28 of a window 14 and a vehicle wall panel 20 having a window aperture (not numbered, but shown in figure 1) shaped to receive the window, where the window frame has a shape that

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allows at least a portion of the window frame including an outer peripheral wall to be received within the window aperture, the retainer being additionally configured to laterally position the window by spacing the outer peripheral wall of such a window frame from an inner peripheral surface of a window aperture, and the retainer being additionally configured to be supported on one of a window frame and a window aperture in a position to laterally position the window as the window is inserted axially into the aperture, the retainer 56 includes a trim strip ring 50 having an elongated stem (not numbered, but shown in figure 4 as the generally horizontal portion of the ring 50) and an elongated seal ring (not numbered, but shown in figure 4 as the portion of the ring 50 extending below the elongated stem).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Stark. Stark discloses a mass transit window installation assembly comprising a window retainer 52 configured to connect between a window frame 12, 14 of a window 42 and a vehicle wall panel 64 having a window aperture (not numbered, but shown in figure 1) shaped to receive the window, where the window frame has a shape that allows at least a portion of the window frame including an outer peripheral wall to be received within the window aperture, the retainer being additionally configured to laterally position the window by spacing the outer peripheral wall of such a window frame from an inner peripheral surface of a window aperture, and the retainer being additionally configured to be supported on one of a window frame and a window aperture in a position to

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laterally position the window as the window is inserted axially into the aperture, the window frame has a front flange 20.

Claim Rejections - 35 USC § 103

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stark in view of Bloor et al. Stark is silent concerning an elongated rubber seal.

However, Bloor et al. discloses an elongated rubber seal ring 8.

It would have been obvious to one of ordinary skill in the art to provide Stark with a rubber seal ring, as taught by Bloor et al., to provide a better seal between the window pane and the aperture.

Response to Arguments

Applicant's arguments filed August 26, 2004 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Gebhard, the examiner respectfully disagrees. Gebhard discloses a mass transit vehicle installation since it discloses window pane 2 and a window frame 3. The window frame 3 includes a window retainer 17 which is capable of connecting between the window frame 3 and a vehicle wall panel of vehicle. In other words, Gebhard discloses a window pane 2 and a window frame 3 that can be inserted in a window opening defined by a vehicle wall panel. It should be noted that the applicant is only claiming the subcombination of a window installation rather than the combination of a window installation and a vehicle.

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Therefore, the applicant's comments concerning the interaction of the window frame 3 of Gebhard and an opening of a vehicle wall panel are not persuasive since the window frame of Gebhard is capable of interacting with an opening of a vehicle wall as recited by the claims. The applicant's comments regarding the window retainer 17 of Gebhard being integrally formed with the window frame 3 are not persuasive since nothing in the claims prevents the window retainer from being integral with the window frame. Moreover, because the window retainer 17 is integral with the window frame it is supported on the window frame 3.

The applicant's comments concerning claim 14-17 are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant has amended claim 1 to include the additional recitations "allows at least a portion of the window frame including an outer peripheral wall to be received within" and "laterally position the window by spacing the outer peripheral wall" on lines 7-10 of claim 1. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

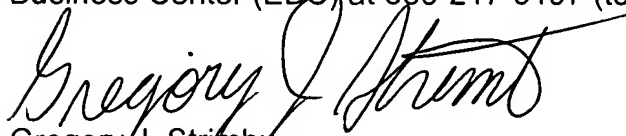
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu

Primary Examiner

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November 19, 2004